

IN THE SENATE OF THE UNITED STATES.

MARCH 12, 1858.—Ordered to be printed.

Mr. BENJAMIN made the following

**REPORT.**

[To accompany Bill S. 41.]

*The Committee on Private Land Claims, to whom was referred the bill "for the relief of Manuel Lisa, Joachim Lisa, and others, and to provide for the location of certain private land claims," have had the same under consideration, and ask leave to make the following report :*

The bill under consideration provides for the location of certain confirmed private land claims, and for the confirmation of certain other claims recommended for confirmation by the board of commissioners appointed to adjust private land claims under the act of March 2, 1805, and the acts supplementary thereto.

By the first section of the act entitled "An act confirming claims to land in the State of Missouri, and for other purposes," approved July 4, 1836, all claims reported upon favorably by the commissioners, and embraced within the two several reports therein named, were confirmed, with the exception of certain claims therein specified.

The second section provides, "that if it shall be found that any tract or tracts, confirmed as aforesaid, or any part thereof, had been previously located by any other person or persons, under any law of the United States, or had been surveyed and sold by the United States, this act shall confer no title to such lands in opposition to the rights acquired by such location or purchase; but the individual or individuals, whose claims are hereby confirmed, shall be permitted to locate so much thereof as interferes with such location or purchase on any unappropriated lands of the United States within the State of Missouri, or Territory of Arkansas, in which the original claim may be, that may be subject to entry at private sale."

The 3d section provides the manner in which such location shall be made, and for the issuing of the patent.

Under this confirmatory act, the claim of the sons of Benito Vasquez was confirmed. Subsequent to such confirmation, the interest of Joseph Vasquez, one of the confirmees, became vested in one J. Epes Cowan, who took possession under it of a certain tract of land in

Missouri, then unsurveyed. After the survey, the said Cowan made application to the General Land Office for a patent, under the 2d and 3d sections of the said act of July 4, 1836. The Commissioner, entertaining doubts upon the question, referred the same to the Attorney General, and on the 5th of February, 1841, Attorney General Gilpin gave his opinion thereon, (see Opinions of Attorneys General, page 1377,) in which he says:

"I am of opinion that the first section of the act in question fully confirms and gives a valid title under the grant to the sons of Benito Vasquez, but I do not think that, without further legislation, the same can be located upon any of the public lands of the United States. This can never be done except by authority from the legislature and the law in question; though it confirms the grant, does not provide for its location. The first section is certainly nothing more than confirmatory of certain Spanish claims. It is in the second and third sections that the power to locate them is given, if anywhere. What is that power? It is to locate 'tracts' confirmed by the first section, and tracts 'lying within the State of Missouri or the Territory of Arkansas.'

"If such confirmed 'tracts' interfere with the lands already surveyed and sold by the United States, provision is made for their location elsewhere. It seems to me impossible to regard these provisions as applicable to any grants but such as have already had a *specific location*; they cannot be applied to *floating* and *unascertained* claims—mere rights of location, such as the grant to the sons of Benito Vasquez is, even though they are valid and confirmed. All the claims confirmed by the first section, except a very few, were located Spanish grants; for them the second and third sections of the act adequately provide; for the others no provision is made, *doubtless, from accident*; but the omission is one that can *only be rectified by the legislature.*"

By special act, approved January 12, 1855, the legal representatives of the said sons of Benito Vasquez, as also John Colligan, were authorized, respectively, to enter a quantity of land equal to that confirmed to them by the said act of July 4, 1836, and at the 1st session of the present Congress an act was passed authorizing the legal representatives of Manuel Gonzales Moro, whose claim was similar in all respects to the Vasquez claim, to enter a quantity of land equal to that confirmed by said act, and that yet remained unsatisfied.

To avoid these special acts, as well as to do justice to all confirmees of the United States, and to meet the objections of the Attorney General as above set forth, the committee believe that this general provision should be made. The only difference between the provision under consideration and the evident intention of the act of 1836 is to extend to the confirmees the right to make the location on any of the public lands of the United States, subject to sale at private entry at a price not exceeding one dollar and twenty-five cents per acre, whilst by the said act such confirmees were intended to be confined to the State or Territory in which the original claim was situated. This change the committee believe is due to the claimants, as it will, to some extent, place them in the position of securing such lands as

they might have selected in 1836, had ample provision been made by said act.

In reference to the confirmation provided by this bill, the committee find that a large number of claims reported for confirmation by the commissioners appointed under the act entitled "An act for ascertaining and adjusting the titles and claims to lands within the Territory of Orleans and the district of Louisiana," approved March 2, 1805, and the several acts supplementary thereto and embraced in the report of the Secretary of the Treasury dated the 8th day of January, 1812, and communicated to the House of Representatives on the 9th day of January, 1812 (see Am. State Papers, Public Lands, Duff Green's edition, volume 2, pages 224 to 367, inclusive,) have not been confirmed by Congress.

It has been generally understood that all the claims recommended for confirmation in the report aforesaid were confirmed by the act entitled "An act for the final adjustment of land titles in the State of Louisiana and Territory of Missouri," approved April 12, 1814; but upon a careful examination of said act, it is found that conditions were attached which excepted from this general confirmatory act many claims recommended by the commissioners for confirmation. The policy that governed Congress in passing a confirmatory act, with the conditions therein expressed, is not appreciated by your committee. By it they omitted to confirm many of the most meritorious claims, which, after a careful examination, were recommended by the commissioners for confirmation.

For instance: under the first proviso to the first section a greater quantity than one league square could not be confirmed to the claimant, although he may have been justly entitled to a greater quantity; and no confirmation could be made to any claimant in his own right if such claimant had received a donation grant from the United States in the said Territory. In the first section there are certain other conditions, which were unnecessary, to determine the legal rights of the claimants. For if, under the treaty stipulations, the claimant was entitled to a confirmation of his title, it was unjust, if not incompetent, for Congress to attach conditions which would defeat the confirmation. Under the said first section it was required that the claimant must have been a resident within the territory at certain specified times; therefore a bona fide claimant, resident of any of the States, was defeated in his claim.

The lands covered by the claims reported by the commissioners for confirmation were expressly reserved from sale by the act providing for the appointment of the commissioners, and such reservation has continued up to the present time.

Most, if not all, of the claimants whose titles would be confirmed by this bill have been in possession of the lands claimed from the date of the concession up to the present time, and many have made lasting and valuable improvements thereon. These last considerations alone would induce the committee to be liberal to the claimants within the true policy of the government; but when taken in connexion with the fact that these claims had undergone a careful and full investigation and were recommended for confirmation, the committee feel that duty devolves upon Congress to confirm the claimants in their titles.

At the first session of the 18th Congress the House Committee on Public Lands made a report upon certain resolutions in relation to lands in the State of Louisiana, (see Am. State Papers, vol. 3, p. 557,) in which they say: "The second resolution instructs your committee to inquire into the expediency of causing patents to issue for lands to persons within the State of Louisiana, *whose titles and claims to lands have been confirmed by the several boards of commissioners*, acting under the authority of the United States. By referring to the act of the 8th (12th) of April, 1814, it will be found that it is made the duty of the registers of the several land districts in Louisiana to furnish the principal deputy surveyor of that district with the list of confirmed private claims; and it is also made the duty of such principal deputy, under the direction of the surveyor, south of Tennessee, to survey those claims at the expense of the United States; which surveys are required to be returned to the Commissioner of the General Land Office, with the certificates of confirmation, whose duty it is made to make out the patents and forward them to the registers for the use of the claimants. From this statement it will appear that if any unaccountable or unreasonable delay has occurred in issuing the patents to lands in Louisiana, *it cannot be attributed to any want of legislation* on the part of Congress. Nor are the committee in the least disposed to fix censure upon any one; but in the absence of all other evidence, except the mere want of performance of the duties required by law, feel themselves bound to presume that the delay in issuing patents has proceeded from the unsettled state of private claims to land in Louisiana, or from causes not heretofore evitable. This they feel the more inclined to do, as they find a confirmation of private claims on an examination made but a short time previously to such confirmation at the last session of Congress."

From this report it would appear that the committee regarded the delay in issuing patents under the confirmatory act of 1814 to the complicated and unsettled state of private land claims in Louisiana, and not from want of any legislation on the part of Congress.

The committee find, by referring to the several confirmatory acts of Congress, that all claims recommended for confirmation by the several boards of commissioners were confirmed in a body as embraced in the report, unless the claim, either by the name of the claimant or by the number of the claim, was specially excepted from confirmation, with the exception of the confirmatory act of 1814. By excepting the claim in the name of the claimant or by the number, such claimant had notice that his claim was not confirmed; but by the act of 1814, years must elapse before the claimant could ascertain whether his title was confirmed or not.

The claimant would naturally conclude, after he had learned that the board of commissioners had recommended his claim for confirmation, and that a confirmatory act had been passed by Congress, and his claim not specially excepted by name or number, that his claim, with the rest, stood confirmed.

In some instances the committee find that years have elapsed after the report of the commissioners, and after the same had been laid be-

fore Congress, without any action of Congress thereon. The report of the commissioners upon private land claims in the western district of Louisiana, dated the 30th of December, 1815, and laid before Congress in 1816, was not passed upon by Congress until the confirmatory act, approved February 5, 1825. Thus, after nine years had passed away, Congress took up the report and confirmed all the claims in a body therein recommended for confirmation.

The bill now reported by the committee is therefore the same as that referred to them, with the following amendments, viz :

1. It excludes the following claims which have already been settled by previous acts of Congress, viz: No. 228, already confirmed by the original act; No. 126, settled by the act of 8th August, 1846, and No. 4, by the act of 3d March, 1847.

2. It provides for the confirmation of the Louisiana land claims above described.

The committee, under the circumstances, have no hesitation in recommending that these claims, confirmed by the said commissioners, ought to be confirmed, to the extent provided in the bill, by Congress.



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The bill now reported by the committee is therefore the same as that reported in 1815, with the following amendments, viz:

1. It excludes the following claims which have already been settled by previous acts of Congress, viz: No. 328, already confirmed by the original act; No. 139, settled by the act of July 4, 1816, and No. 4, by the act of 24 March, 1817.

2. It provides for the confirmation of the Louisiana land claims as those described.

3. It provides for the confirmation of the Louisiana land claims as those described, under the circumstances, but no limitation in the confirmation that these claims, confirmed by the said commissioners, ought to be confined to the extent provided in the bill, by Congress.

4. It provides for the confirmation of the Louisiana land claims as those described, under the circumstances, but no limitation in the confirmation that these claims, confirmed by the said commissioners, ought to be confined to the extent provided in the bill, by Congress.

5. It provides for the confirmation of the Louisiana land claims as those described, under the circumstances, but no limitation in the confirmation that these claims, confirmed by the said commissioners, ought to be confined to the extent provided in the bill, by Congress.

6. It provides for the confirmation of the Louisiana land claims as those described, under the circumstances, but no limitation in the confirmation that these claims, confirmed by the said commissioners, ought to be confined to the extent provided in the bill, by Congress.

7. It provides for the confirmation of the Louisiana land claims as those described, under the circumstances, but no limitation in the confirmation that these claims, confirmed by the said commissioners, ought to be confined to the extent provided in the bill, by Congress.

8. It provides for the confirmation of the Louisiana land claims as those described, under the circumstances, but no limitation in the confirmation that these claims, confirmed by the said commissioners, ought to be confined to the extent provided in the bill, by Congress.

IN THE SENATE OF THE UNITED STATES.

March 12, 1897.—(Referred to its committee.)

Mr. Danks made the following

REPORT

[To accompany S. No. 114.]

*The Committee on Private Land Claims, to whom was referred the memorial of the "Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States," and also the petition of Edgar Sheehy that twenty-four acres, praying for the condemnation of the above named society of his wife in certain tract of land in the State of Wisconsin, have had the same under consideration, and ask leave to make the following report:*

That in the year 1822, as officers of the "Domestic and Foreign Missionary Society of the Protestant Episcopal Church in the United States," by permission of the Secretary of War, entered upon lot No. 12, situated on the east side of Fox river, near Green Bay, in the State of Wisconsin, and established thereon a mission and school among the Menominee and other Indians in that vicinity. The memorial of the society alleges that the mission continued in successful operation until the removal of the Indians in the case of the Milwaukee, and that upwards of nine thousand dollars have been expended in improvements made by them and land. The society, in order to indemnify itself so far as possible, as well as to carry on its other work, now asks Congress to pass an act allowing it to enter and hold on the payment of the usual price demanded for such or public lands.

Your committee has no objection to the prayer of the petitioners being granted, and a bill is accordingly reported and its passage recommended, authorizing and enabling to enter 24 acres of land, and twenty-five cents per acre, the land owned by it, and known as the Mission Farm, and containing 218.12 superficial acres.

